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### ADVISORY OPINION 2018-002

**Any Advisory Opinion rendered by the Registry under subsection (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the Advisory Opinion is required. See KRS 121.135(4).**

April 20, 2018

**VIA FACSIMILE 502.632.5263**  
**AND FIRST CLASS U.S. MAIL**

Mr. Thomas J. Schulz  
Priddy, Cutler, Naake & Meade PLLC  
2303 River Road, Suite 300  
Louisville, KY 40206

In re: Permanent Committees – Transfers of Funds between Affiliates (AO 2018-002)

Dear Mr. Schulz:

This Advisory Opinion is sent in response to your recent request on behalf of Better Schools Kentucky PAC (BSK) regarding a proposed transfer of funds by BSK to the NEA Fund for Children and Public Education (NFCPE). The Registry received your advisory opinion request on March 22, 2018. As required by KRS 121.135(5)(a), your request was posted for public comment on March 27, 2018. No public comments were received.

**In re: Permanent Committee/ Transfers of Funds between Affiliates (AO 2018-002)**

BSK, sponsored by the Jefferson County Teachers Association (JCTA), is registered in Kentucky as a permanent committee under KRS 121.015(3)(d). JCTA is a local affiliate of the National Education Association (NEA). The NEA sponsors the NFCPE. As JCTA members are also members of the NEA, JCTA members may voluntarily contribute to both BSK and the NFCPE.

NFCPE is a political organization under Section 527 of the Internal Revenue Code registered with the Federal Election Commission (FEC). NFCPE maintains a federal account for federal political activity and a non-federal account for state and local political activity. The NFCPE periodically discloses its federal activities to the FEC and its non-federal activities to the Internal Revenue Service and campaign finance authorities in several states. Given the parameters of KRS 121.170(1) consistent with Advisory Opinion 2010-006, you explain, the NFCPE meets the definition of a federally-registered out-of-state permanent committee in Kentucky.

NFCPE's mission is to recommend and support pro-public education candidates for federal office, although it can and does make contributions to candidates for state or local offices through its non-federal account. BSK does not make contributions to candidates for federal office.

JCTA members and the JCTA Board of Directors elect the committee members of BSK. JCTA members also vote to elect the state president of the Kentucky Education Association (KEA). The KEA president serves as the designated representative on the NFCPE for NEA membership in Kentucky.

BSK and the NFCPE have agreed to be affiliated committees. As affiliated committees, BSK and NFCPE acknowledge that they will be considered as one (1) committee for purposes of applying the contribution limits of KRS 121.150(6). See KRS 121.150(7). In light of this, you specifically ask if election finance provisions of KRS Chapter 121 regulate, or otherwise limit, a transfer of funds from Better Schools Kentucky (BSK) to the NEA Fund for Children and Public Education (NFCPE).

Given all the factors described in your request, you have appropriately characterized BSK and NFCPE as affiliated committees. Kentucky's campaign contribution limits do not apply to transfers between affiliated committees. Thus, the BSK may transfer an unlimited amount of funds to the NFCPE. However, as affiliated committees, the NFCPE and BSK are treated as one (1) committee, subject to a single contribution limit under KRS 121.150(6) (currently \$2,000). In addition, to the extent that the NFCPE contributes funds to Kentucky state and local candidates, the NFCPE must submit reports of its contributions to the Registry. See KRS 121.170(5) and Advisory Opinion 2010-006. Finally, if the NFCPE makes more than \$500 in expenditures to support a candidate in a manner that is truly independent of the candidate's organized campaign, the NFCPE must file an Independent Expenditure Report. See KRS 121.150(1) and KRS 121.015(12).

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Thomas J. Schulz, Esq.

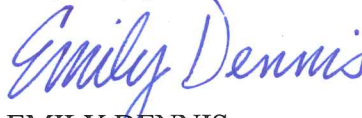
Better Schools Kentucky PAC

April 20, 2018

**In re: Permanent Committee/ Transfers of Funds between Affiliates (AO 2018-002)**

Please keep in mind that this Advisory Opinion is based on the specific facts set forth in your written request, does not cover past conduct, and only may be applied to cover the conduct in the transaction you describe. If you have any questions concerning this Advisory Opinion, please do not hesitate to contact the Registry. Thank you.

Very truly yours,



EMILY DENNIS  
General Counsel

Cc: Registry Members  
John R. Steffen, Executive Director